

IN THE SUPREME COURT OF THE STATE OF DELAWARE

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|--------------------|---|---------------------------------|
| MICHAEL A. WOOD, | § | |
| | § | No. 176, 2012 |
| Defendant Below, | § | |
| Appellant, | § | Court Below—Superior Court |
| | § | of the State of Delaware in and |
| v. | § | for Sussex County |
| | § | |
| STATE OF DELAWARE, | § | |
| | § | Cr. ID Nos. 0908015904 |
| Plaintiff Below, | § | 1001007170 |
| Appellee. | § | |

Submitted: June 11, 2012
Decided: August 24, 2012

Before **STEELE**, Chief Justice, **HOLLAND** and **RIDGELY**, Justices.

O R D E R

This 24th day of August 2012, upon consideration of the appellant's opening brief and the appellee's motion to affirm, it appears to the Court that:

(1) On March 2, 2010, the appellant, Michael A. Wood, pled guilty to Burglary in the Third Degree, Forgery in the Second Degree and two counts of Conspiracy in the Second Degree. The Superior Court sentenced Wood to a total of nine years at Level V suspended upon completion of Boot Camp for one year of Level III Aftercare.

(2) On May 11, 2011 and again on August 16, 2011, Wood was adjudged guilty of violation of probation and resentenced. On January 5,

2012, Wood was again charged with violation of probation (VOP). New criminal charges against Wood in part formed the basis for the VOP.

(3) On March 6, 2012, the Superior Court adjudged Wood guilty of VOP. On March 16, 2012, the Superior Court resentenced Wood to a total of seven years at Level V suspended and the balance discharged as unimproved after completion of the Level V Key Program and one year of a residential substance abuse treatment program. This appeal followed.

(4) On appeal, Wood challenges the evidentiary basis for the March 6, 2012 conviction of VOP. Wood also questions whether the Superior Court had authority to convict him of VOP on the basis of the new criminal charges that were not yet proven. Wood's first claim is unavailing, and his second claim is without legal merit.

(5) Wood's claim of insufficient evidence is unavailing in the absence of a transcript of the VOP hearing. Wood did not order transcript for this appeal. The failure to include adequate transcript of the trial court proceedings precludes appellate review of a claim of error with respect to the proceedings.¹

(6) There is no merit to Wood's claim that he could not be found guilty of a VOP on the basis of new and unproven criminal charges.

¹ See *Hawkins v. State*, 2010 WL 3341578 (Del. 2010) (citing *Tricoche v. State*, 525 A.2d 151, 154 (Del. 1987)).

Delaware law provides that the Superior Court has the authority to revoke probation on the basis that a probationer has been charged with new criminal conduct.²

NOW, THEREFORE, IT IS ORDERED that the motion to affirm is GRANTED. The judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Myron T. Steele
Chief Justice

² See *Hawkins v. State*, 2010 WL 3341578 (Del. Supr.) (citing *Cruz v. State*, 990 A.2d 409 (Del. 2010)); *Waters v. State*, 2012 WL 1655706 (Del. Supr.) (citing *Kurzmann v. State*, 903 A.2d 702, 717 (Del. 2006)).